

Appendix A to Consent Decree in the matter of *United States v. The
Housing Authority of the City of Dallas, Texas*, (N.D. Texas)

COPY

RSR CORPORATION SITE
OPERABLE UNIT 02
DALLAS HOUSING AUTHORITY
DALLAS, TEXAS

ADMINISTRATIVE ORDER ON CONSENT
FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY
AND REMOVAL ACTIONS

CERCLA DOCKET NO. 6-21-93

002110

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. JURISDICTION	2
III. DEFINITION	2
IV. PARTIES BOUND	5
V. STATEMENT OF PURPOSE	6
VI. FINDINGS OF FACT	7
VII. CONCLUSIONS OF LAW AND DETERMINATIONS	11
VIII. NOTICE TO THE STATE	12
IX. WORK TO BE PERFORMED	12
X. MODIFICATION OF THE WORK PLAN	26
XI. QUALITY ASSURANCE	28
XII. FINAL RI/FS, PROPOSED PLAN, PUBLIC COMMENT RECORD OF DECISION, ADMINISTRATIVE RECORD	28
XIII. PROGRESS REPORTS AND MEETINGS	29
XIV. SAMPLING, ACCESS, AND DATA/DOCUMENTS AVAILABILITY	30
XV. DESIGNATED PROJECT COORDINATORS	34
XVI. OTHER APPLICABLE LAWS	35
XVII. RECORD PRESERVATION	36
XVIII. DISPUTE RESOLUTION	36
XIX. DELAY IN PERFORMANCE/STIPULATED PENALTIES	37
XX. FORCE MAJEURE	39
XXI. REIMBURSEMENT OF PAST COSTS	41
XXII. REIMBURSEMENT OF RESPONSE AND OVERSIGHT COSTS ..	42
XXIII. RESERVATIONS OF RIGHTS AND REIMBURSEMENT OF OTHER COSTS	44

002111

TABLE OF CONTENTS cont'd

	Page
XXIV. DISCLAIMER	46
XXV. OTHER CLAIMS	46
XXVI. INSURANCE AND INDEMNIFICATION.....	47
XXVII. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION	49
XXVIII. SEVERABILITY	50
XXIX. TERMINATION AND SATISFACTION	50

LIST OF ATTACHMENTS:

ATTACHMENT 1: ACTION MEMORANDUM dated October 24, 1991
ACTION MEMORANDUM dated May 18, 1992
ACTION MEMORANDUM dated September 23, 1992
ACTION MEMORANDUM dated May 3, 1993

002112

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6

IN THE MATTER OF:	§ Proceeding Under Sections 104,
	§ 106, 107, and 122 of the
RSR CORPORATION SITE	§ Comprehensive Environmental
OPERABLE UNIT 02	§ Response, Compensation and
	§ Liability Act (CERCLA), as
	§ amended, 42 U.S.C. §§ 9604,
	§ 9606, 9607, and 9622.
RESPONDENT	§
DALLAS HOUSING AUTHORITY	§ CERCLA DOCKET NO. 6-21-93

ADMINISTRATIVE ORDER ON CONSENT
FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY
AND REMOVAL ACTIONS

I. INTRODUCTION

1. This Administrative Order on Consent ("Consent Order") is entered into voluntarily by the United States Environmental Protection Agency (EPA) and Dallas Housing Authority (DHA). Specifically, the EPA and DHA agree that the AOC will govern DHA's conduct of a Remedial Investigation/Feasibility Study (RI/FS), all necessary removal activities, and the demolition of existing structures at Operable Unit Two of the RSR Corporation Site that are consistent with the removal activities that EPA has been conducting in the West Dallas area pursuant to the Action Memoranda dated October 31, 1991, May 18, 1992, September 23, 1992, and May 6, 1993, attached as Attachment Number 1. In addition, this Consent Order will provide for the reimbursement to EPA of past costs and future costs incurred in overseeing DHA's activities. As part of EPA's oversight responsibilities under the AOC, EPA will review DHA's plans for any proposed demolition activities to ensure that the conduct of the demolition and any subsequent redevelopment will be protective of human health and the environment and will be

consistent with CERCLA, the NCP, and applicable EPA guidance and policy.

II. JURISDICTION

2. This Consent Order is issued under the authority vested in the President of the United States by Sections 104, 106, 107, 122(a), and 122(d)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, (CERCLA), 42 U.S.C. §§ 9604, 9606, 9607, 9622(a), and 9622(d)(3). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (1987), and further delegated to Regional Administrators on September 13, 1987, by EPA Delegation No. 14-14-C. The authority was further redelegated to the Hazardous Waste Management Division Director on November 3, 1988 by EPA Delegation No. R6-14-14-C.

3. DHA, hereafter "Respondent," agrees to undertake all actions required by the terms and conditions of this Consent Order. In any action by EPA or the United States to enforce the terms of this Consent Order, Respondent admits jurisdiction and agrees not to contest the authority or jurisdiction of the EPA to issue or enforce this Consent Order, and agrees not to contest the validity of this Order or its terms.

III. DEFINITIONS

4. The principal terms used herein are defined as follows:

a. TWC. Texas Water Commission.

b. ARARS. "Applicable or relevant and appropriate requirements" as those terms are defined in 40 C.F.R. § 300.6 and 42 U.S.C. § 9621(d).

c. CERCLA. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.

d. Consent Order. This document as negotiated between EPA and Respondent including all attachments.

e. EPA. United States Environmental Protection Agency Region 6.

f. NCP. The National Oil and Hazardous Substance Pollution Contingency Plan, 40 C.F.R. Part 300 et seq. (1990).

g. NPL. The National Priorities List, 40 C.F.R. Part 300, App. B (1990).

h. Party/Parties. EPA and Respondent.

i. PC. Project Coordinators, one each to be appointed by EPA and Respondent.

j. Removal. The term "remove" or "removal" means the cleanup or removal of released hazardous substances from the environment, such actions as may be necessary taken in the event of the threat of release of hazardous substances into the environment, such actions as may be necessary to monitor, assess, and evaluate the release or threat of release of hazardous substances, the disposal of removed material, or the taking of such other actions as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare

or to the environment, which may otherwise result from a release or threat of release. The term includes, in addition, without being limited to, security fencing or other measures to limit access, provision of alternative water supplies, temporary evacuation and housing of threatened individuals not otherwise provided for, action taken under CERCLA Section 104(b), 42 U.S.C. § 9604(b), and any emergency assistance which may be provided under the Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121 et seq.

k. Respondent. Dallas Housing Authority.

l. Response Costs. All costs, not inconsistent with the National Contingency Plan, including direct costs, indirect costs, and accrued interest, incurred by the United States to perform and/or support response actions related to the RI/FS (including costs incurred in connection with Home Sampling activities conducted at the Site), any removal actions, and the preparation of a Record of Decision (ROD) relating to the selection of any remedial actions to be performed at the Site. Response costs also include, but are not limited to, the costs of overseeing the Work such as the costs of reviewing or developing plans, reports, or other items pursuant to this Consent Order, costs associated with verifying the Work, and costs associated with any enforcement of this Consent Order.

m. RI/FS. Remedial Investigation and Feasibility Study.

002116

n. Project Plans. Include the Project Workplan, Sampling and Analysis Plan (Field Sampling Plan and Quality Assurance Project Plan), and Health and Safety Plan.

o. SARA. The Superfund Amendments and Reauthorization Act of 1986.

p. Site. The RSR Corporation Site Operable Unit 02, Dallas Housing Authority Property which currently encompasses approximately 460 acres, located in the City of Dallas, Dallas County, Texas in an area bounded on the west side by Westmoreland Road, on the south side by Singleton Boulevard, on the east side by Hampton Road, and on the north by Canada Drive.

q. Work. All activities Respondent is required to perform under this Consent Order, including any activities required to be undertaken pursuant to Section IX.

IV. PARTIES BOUND

5. This Consent Order shall apply to and be binding upon EPA and shall be binding upon the Respondent, its agents, successors, assigns, officers, directors, and principals. Respondent is jointly and severally responsible for carrying out all actions required of it by this Consent Order. The signatories to this Consent Order certify that they are authorized to execute and legally bind the parties they represent to this Consent Order. No change in the ownership or corporate status of the Respondent or of the Site shall alter Respondent's responsibilities under this Consent Order.

6. Until termination of this Consent Order, Respondent shall provide a copy of this Consent Order to any subsequent owners or successors before ownership rights or stock or assets in a corporate acquisition are transferred. Respondent shall provide a copy of this Consent Order to all contractors, subcontractors, laboratories, and consultants which are retained to conduct any work performed under this Consent Order, within 14 days after the effective date of this Consent Order or the date of retaining their services, whichever is later. Respondent shall condition any such contracts upon satisfactory compliance with this Consent Order. Notwithstanding the terms of any contract, Respondent is responsible for compliance with this Consent Order and for ensuring that its subsidiaries, employees, contractors, consultants, subcontractors, and agents comply with this Consent Order.

V. STATEMENT OF PURPOSE

7. In entering into this Consent Order, the objectives of EPA and Respondent are: (a) to determine the nature and extent of contamination and any threat to the public health, welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants or contaminants at or from the Site by conducting a remedial investigation; (b) to determine and evaluate alternatives for remedial action (if any) to prevent, mitigate or otherwise respond to or remedy any release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site by conducting a feasibility study; (c) to ensure that all necessary precautions are taken to prevent

hazardous substance releases during the conduct of demolition activities; (d) to perform all necessary removal actions to abate any imminent and substantial endangerment conditions within the Site, and (e); to recover from Respondent response and oversight costs incurred by EPA with respect to the Site and this Consent Order.

8. The activities conducted under this Consent Order are subject to approval by EPA. Respondent shall provide all appropriate necessary information for the demolition, removal, and RI/FS activities, and for a Record of Decision that is consistent with CERCLA Sections 104, 106, 121, and 122, 42 U.S.C. §§ 9604, 9606, 9621, and 9622, and the National Contingency Plan (NCP), 40 C.F.R. Part 300 et seq. The activities conducted under this Consent Order shall be in compliance with all applicable EPA guidance, policies, and procedures.

VI. FINDINGS OF FACT

9. Generally, the Site occupies approximately 460 acres of land bounded on the west side by Westmoreland Road, on the south side by Singleton Boulevard, on the east side by Hampton Road, and on the north by Canada Drive. The topography of the Site area is generally flat. The area of the Site presenting an imminent and substantial endangerment to human health and the environment is fenced off, while access to other areas of the Site is open to the general public. The Site reportedly received emissions from a nearby smelter stack into the early 1980's.

10. Respondent has conducted previous investigations of the Site and has completed various investigative reports documenting those investigations and evaluating such information. The documents are titled "Status Report," "Baseline Risk Assessment," and "Feasibility Study," and were all received by EPA as of October, 1992. EPA has since commented on the "Status Report" and "Feasibility Study" by letter dated December 21, 1992. EPA has reserved direct comment on the "Baseline Risk Assessment" due to the fact that EPA will be conducting an independent Risk Assessment for the Site. In addition, Respondent has prepared various draft planning documents titled "Removal Action Plan" and "Remedial Investigation Workplan" received by EPA in February and March 1993, respectively. As of the effective date of this Consent Order, these documents are being reviewed by EPA for completeness. Upon approval by EPA of these documents and the other required planning documents defined as the Project Plans, Respondent will conduct those activities as approved in the Project Plans.

11. Contaminants detected at elevated levels at the Site during sampling inspections conducted by EPA during removal investigations in September, 1991 and a report provided by Respondent in January, 1993 include the following: Lead, Arsenic, and Cadmium.

12. Lead is a bluish-gray metal. Lead has many different uses of which the most important use is in the production of some types of batteries. Human exposure to lead occurs primarily through inhalation and ingestion with very little lead entering the

002120

body through dermal absorption. Lead exposure is particularly dangerous for children and fetuses. Arsenic is a grayish metal. Arsenic occurs naturally in copper or lead ores. The primary use of arsenic is in wood preservation and agricultural chemicals. Other uses of arsenic include glass production, and nonferrous alloying (eg. hardening agent for lead posts and grids in the lead-acid battery industry). Human exposure to arsenic occurs primarily through ingestion and inhalation and, to a lesser degree, through dermal absorption. Cadmium is a silver-white metal. Cadmium has many uses in industry and consumer products such as batteries, pigments, metal coatings, and plastics. Human exposure to cadmium occurs primarily through inhalation and ingestion and, to a lesser degree, through dermal absorption.

13. The general public and residents of Respondent's residential units located on the Site utilize the Site for living and recreational purposes. A potential exposure exists to these people from ingesting and inhaling substances present in the contaminated soils located on the Site.

14. A potential exposure exists for individuals who work on the Site from ingesting and inhaling substances present in the contaminated soils located on the Site.

15. The Site forms a portion of the RSR Corporation Site. The RSR Corporation Site was proposed to the National Priorities List (NPL) on May 10, 1993 and is being assessed for possible inclusion on the NPL.

16. Respondent is a quasi-governmental organization authorized to conduct business in the State of Texas.

17. During the period when releases occurred at the Site, Respondent owned and/or operated property on which the Site is located.

18. Respondent currently owns and/or operates the property on which the Site is located.

19. The Site contains multi-family housing units which are part of the Lakewest Housing Development owned and operated by Respondent. Respondent intends to conduct demolition of multi-family housing units within the boundaries of the Site. These units will be demolished and the debris removed to an off-site disposal facility. Respondent intends to conduct the demolition prior to conducting the soil removal and Remedial Investigation and Feasibility Study activities required in this Consent Order.

20. Demolition of existing housing structures at the Site could potentially release lead and other hazardous substances onto adjacent areas within the Site.

21. EPA, in conjunction with the Agency for Toxic Substances Disease Registry and the City of Dallas, intends to conduct a home sampling and information gathering survey (hereinafter "Home Sampling") within the boundaries of the RSR Corporation site. The purpose of the Home Sampling is to determine the various routes of human exposure to lead in a residential setting, including exposure through, but not limited to, paint, dust, soil, water, and cookware. The Home Sampling may involve, but will not necessarily

002121

be limited to, the following activities: the taking of venous blood samples from residents for laboratory analysis; the collection of dust, paint, soil, water, and cookware samples from the homes, and the laboratory analysis of such samples; analysis of exposure pathways of lead to residents; and the conduct of a survey and questionnaire of participating residents.

22. EPA will use the results from the Home Sampling activities to assess the risk to human health posed by lead through various exposure routes. The results of the Home Sampling activities will be incorporated into the human health risk assessment conducted by EPA as part of the Remedial Investigation/Feasibility Study to be conducted for the Site.

VII. CONCLUSIONS OF LAW AND DETERMINATIONS

23. The Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

24. The substances identified in paragraphs 11 and 12 are either "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14), or constitute "any pollutant or contaminant" that may present an imminent and substantial danger to public health or welfare within the meaning of Section 104(a)(1) of CERCLA, 42 U.S.C. § 9604(a)(1).

25. The presence of hazardous substances at the Site or the past, present, or potential migration of hazardous substances currently located at the Site, constitute actual and/or threatened "releases" as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

26. Respondent is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

27. Respondent is a responsible party under Sections 104, 107, and 122 of CERCLA, 42 U.S.C. §§ 9604, 9607, and 9622.

28. The actions required by this Consent Order are necessary to protect the public health or welfare or the environment, are in the public interest, 42 U.S.C. § 9622(a), are consistent with and satisfy the requirements of CERCLA and the NCP, 42 U.S.C. §§ 9604(a)(1), and 9622(a), and will expedite effective remedial action and minimize litigation, 42 U.S.C. § 9622(a).

VIII. NOTICE TO THE STATE

29. By providing a copy of this Consent Order to the State of Texas through the Texas Water Commission (TWC), EPA is notifying the State of Texas that this Order is being issued and that EPA is the lead agency for coordinating, overseeing, and enforcing the response actions required by this Order. Respondent shall provide a copy of all correspondence and deliverables submitted to EPA to the State of Texas as required in Section XV of this Order.

IX. WORK TO BE PERFORMED

30. All work conducted under this Consent Order shall be under the direction and supervision of qualified personnel. Within 30 days of the effective date of this Order, and before the work outlined below begins, Respondent shall notify EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants and laboratories to be used in carrying out such work. The qualifications of the persons

undertaking the work for Respondent shall be subject to EPA's review for verification that such persons meet minimum technical background and experience requirements. This Order is contingent on Respondent's demonstration to EPA's satisfaction that Respondent is qualified to perform properly and promptly the actions set forth in this Consent Order. If EPA disapproves in writing of any person's technical qualifications, Respondent shall notify EPA of the identity and qualifications of the replacement within 30 days of the written notice. If EPA subsequently disapproves of a replacement, EPA reserves the right to terminate this Order and to conduct a complete RI/FS, and to seek reimbursement for costs and penalties from Respondent. During the course of the RI/FS, Respondent shall notify EPA in writing of any changes or additions in the personnel used to carry out such work, providing their names, titles, and qualifications. EPA shall have the same right to approve changes and additions to personnel as it has hereunder regarding the initial notification.

31. Respondent shall conduct activities and submit deliverables for the development of the RI/FS, the conduct of all necessary removal activities, and the demolition of existing structures as provided herein and in the Project Plans that are to be developed by Respondent under this Consent Order and subsequently approved by EPA. All such work shall be conducted in accordance with CERCLA, the NCP, and EPA guidance documents referred to, but not limited to those specifically identified herein. The general activities that Respondent is required to

perform are identified below, followed by a list of deliverables. The tasks that Respondent must perform will be described more fully in the approved Project Plans developed pursuant to this Consent Order. All work performed under this Consent Order shall be in accordance with the schedules approved in the Project Plans or as expressly provided herein and shall be in full accordance with the standards, specifications, and other requirements of the workplan, sampling and analysis plans, and health and safety plans as initially approved or modified by EPA, and as may be amended or modified by EPA from time to time. For purposes of this Order, "day" means calendar day unless otherwise noted in this Order.

A. Scoping

32. EPA has reviewed existing data that were generated as a result of investigations of the Site previously conducted by Respondent and preliminary data gaps have been identified. The Project Plans which are described below will be developed and submitted as deliverables under this Consent Order. Respondent shall refer to OSWER Directive 9355.3-01, "Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA" when preparing the Project Plans listed below. No later than forty-five (45) days after the effective date of this Order, Respondent shall submit the following Project Plans to EPA:

- a. Project Workplan. The Project Workplan shall include a site background summary and a detailed description of the tasks to be conducted during the demolition, removal, and RI/FS activities. The Project Workplan shall include the

methodologies, information to be developed, and the deliverables for the activities conducted pursuant to this Consent Order, as well as the corresponding schedules for completion of those activities. The Project Workplan shall also identify the personnel who will be responsible for the conduct of the Work.

b. Sampling and Analysis Plan. The Sampling and Analysis Plan (SAP) consists of a field sampling plan (FSP) and a Quality Assurance Project Plan (QAPP).

(i). Field Sampling Plan. The FSP shall define in detail the sampling and data gathering activities, objectives, information to be gathered, and the locations and frequencies of sampling.

(ii). Quality Assurance Project Plan. The QAPP shall describe the project objectives and organization, functional activities, quality assurance and quality control protocols, sampling procedures, sample custody, analytical procedures and detection levels, and data reduction, validation, and reporting.

c. Site Health and Safety Plan. This plan shall be prepared in accordance with the Occupational Safety and Health Administration (OSHA) regulations applicable to Hazardous Waste Operations and Emergency Response, 29 CFR Part 1910. EPA will review the Site Health and Safety Plan for compliance, but will not approve the plan. EPA may, at its discretion, disapprove the Site Health and Safety Plan and

002126

provide comments concerning those aspects of the plan which pertain to the protection of the environment and the health of persons not employed by, or under contract to, Respondent.

If EPA disapproves of or requires revisions to any of the Project Plans, in whole or in part, Respondent shall submit to EPA, within ten (10) days of receiving EPA's directions or comments, revised plan(s) which are responsive to such directions or comments.

B. Demolition, Removal, and Remedial Investigation

33. Following EPA approval of the Project Plans, Respondent shall implement the demolition, removal, and remedial investigation activities described in such plans. Respondent shall conduct demolition, removal, and Remedial Investigation activities in accordance with the approved schedule contained in the Project Plans and in this Consent Order.

34. Respondent shall notify EPA if it intends to conduct any demolition activities at the Site other than those set forth in the Project Plans. Such notification shall be made in writing to the addressees in Section XV of this Order no later than thirty (30) days prior to the date such demolition is scheduled to begin.

C. Community Relations Plan

35. EPA will prepare a community relations plan, in accordance with EPA guidance and the NCP, and will provide a copy of same to Respondent for review and comment. Respondent shall provide information concerning activities conducted pursuant to this Consent Order, upon request from EPA, to support EPA's community relations programs. Any press releases or documents

prepared for public review by Respondent shall include the statement: "The Dallas Housing Authority is a separate entity from the United States Environmental Protection Agency. Views and opinions expressed by the Dallas Housing Authority do not necessarily reflect Environmental Protection Agency policy."

D. Remedial Investigation Report

36. At the completion of the demolition, removal, and Remedial Investigation activities, and in accordance with the schedule approved in the Project Plans, Respondent shall provide EPA with a Remedial Investigation Report which documents the activities conducted and data and information collected during the demolition, removal, and Remedial Investigation activities conducted at the site. Respondent shall refer to the "Guidance for conducting Remedial Investigations and Feasibility Studies Under CERCLA" (October 1988) and shall specifically follow Table 3-13 for Remedial Investigation Report content and format. If EPA disapproves of or requires revisions to the Remedial Investigation Report, in whole or in part, Respondent shall submit to EPA, within twenty (20) days of receiving EPA's directions or comments, a revised Remedial Investigation Report which is responsive to such directions or comments.

E. Risk Assessment

37. EPA will perform the Baseline Risk Assessment which consists of both a human health risk assessment and an ecological risk assessment. Respondent shall support EPA in its efforts by obtaining information through its Remedial Investigation activities

and provide such information for use in the Risk Assessments.

Respondent shall submit to EPA the following information:

a. Summary of Area Demographic Characteristics. A memorandum which identifies: (a) family size, location, age, sex, ethnic distribution, birthrate, and occupation of residents within the surrounding area of the Site; (b) location of all schools, nursing homes, and hospitals within the surrounding area of the Site; (c) land and water uses of the surrounding area of the Site; (d) location of residential water wells and the aquifers in which they are screened within the surrounding area of the Site; and (e) recreational activities of the immediate area surrounding the Site, such as extent and location of fishing, hunting, and water sports. Respondent shall fully document the source(s) of all information presented. The Summary of Area Demographic Characteristics shall be submitted to EPA within sixty (60) days of the effective date of this Consent Order.

b. Summary of Area Ecological Characteristics. A memorandum which identifies the various types of plants, vegetation, and wildlife (aquatic and terrestrial) which inhabit the Site and immediate surrounding area. The Summary of Area Ecological Characteristics ("Ecological Summary") shall include a discussion of any endangered, threatened, or rare species which may inhabit the Site or immediate surrounding area. The Ecological Summary shall evaluate the possibility that some portion of the Site or surrounding area may be classified as

002129

a wetland habitat per Section 404 of the Clean Water Act. Respondent shall fully document the source(s) of all information presented. The Summary of Ecological Characteristics shall be submitted to EPA within 60 days of the effective date of this Consent Order.

F. Treatability Studies

38. Major components of the treatability studies include determination of the need for and scope of studies, the design of the studies, and completion of the studies. During treatability studies, Respondent shall provide EPA with the following deliverables:

a. Treatability Testing Workplan. Within thirty (30) days of the date Respondent receives notice from EPA that treatability studies are required, Respondent shall submit a Treatability Testing Workplan, including a Schedule for implementing such a Workplan. If EPA disapproves of the Treatability Testing Workplan, in whole or in part, Respondent shall submit to EPA, within fifteen (15) days of receiving EPA's directions or comments, a revised Treatability Testing Workplan which is responsive to such directions and comments.

b. Treatability Study Sampling and Analysis Plan. Within thirty (30) days of the date Respondent receives notice from EPA that treatability studies are required, Respondent shall submit a Treatability Study Sampling and Analysis Plan ("TSSAP"). If EPA disapproves of the TSSAP, in whole or in part, Respondent shall amend and submit to EPA, within fifteen

(15) days of receiving EPA's directions and comments, a revised TSSAP which is responsive to such directions and comments.

c. Treatability Study Report. Within thirty (30) days of completion of work under the Treatability Testing Workplan and the TSSAP, Respondent shall submit a Treatability Study Report to EPA. The report shall evaluate the technology's effectiveness, implementability, and actual results as compared with predicted results. If EPA disapproves of or requires revisions to the Treatability Study Report, in whole or in part, Respondent shall submit to EPA, within fifteen (15) days of receiving EPA's directions and comments, a revised Treatability Study Report which is responsive to such directions and comments.

G. Feasibility Study

39. Major components of the Feasibility Study include the Development and Screening of Alternatives for remedial action, a Detailed Analysis of Alternatives for remedial action, and the submission to EPA, for approval, of a Feasibility Study Report.

a. Development and Screening of Alternatives. Respondent shall develop an appropriate range of remedial alternatives that will be evaluated through development and screening. EPA will deliver to Respondent guidance materials concerning remedy selection after or contemporaneously with EPA's approval of the Remedial Investigation Report. Within thirty (30) days of Respondent's receipt of the guidance materials

002131

from EPA, Respondent shall submit an Alternative Development and Screening Memorandum ("ADSM") to EPA. The ADSM shall summarize the assembled alternatives for each affected medium and the chemical, location, and action-specific ARARs for each of the considered alternatives. Reasons for eliminating alternatives during the preliminary screening process must be specified. The ADSM shall summarize the remedial action objectives and the results of the screening process. If EPA disapproves of or requires revisions to the ADSM, in whole or in part, Respondent shall amend and submit to EPA, within fifteen (15) days of receiving EPA's directions and comments, a revised ADSM which is responsive to such directions and comments.

b. Detailed Analyses of Alternatives. Respondent shall conduct a detailed analysis of remedial alternatives, as described in EPA's "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA". The major components of the Detailed Analysis of Alternatives consist of an analysis of each option against a set of evaluation criteria and a comparative analysis of all options with respect to each other in a manner consistent with 40 CFR § 300.430(e). However, Respondent shall not consider state and community acceptance during the Detailed Analysis of Alternatives. The analysis of remedial alternatives shall consist of the following deliverables:

002132

- (i) Nine Criteria Analysis Memorandum. No later than thirty (30) days after approval of the ADSM, Respondent shall submit to EPA a memorandum summarizing the results of the nine criteria evaluation.
 - (ii) Remedial Alternatives Comparative Analysis Report. No later than thirty (30) days after approval of the Nine Criteria Analysis Memorandum, Respondent shall submit a summary of the results of the comparative analysis conducted between the remedial alternatives.
 - (iii) Presentation to EPA. Within ten (10) days of submission of the comparative analysis, Respondent and its contractor shall conduct a presentation to EPA at which Respondent shall present and discuss findings of the remedial investigation, remedial action objectives, alternatives evaluated in the Feasibility Study, and the comparative analysis.
- c. Draft Feasibility Study Report. Respondent shall refer to the "Guidance for conducting Remedial Investigations and Feasibility Studies Under CERCLA" (October 1988), specifically Table 6-5 for report content and format. No later than thirty (30) days after presentation to EPA, Respondent shall submit to EPA, for approval, a draft Feasibility Study Report which documents the activities conducted during the Development and Screening of Alternatives and the Detailed Analyses of Alternatives as described above. If EPA disapproves the Feasibility Study Report in whole or in part, Respondent shall

submit to EPA, within fifteen (15) days of receiving EPA's directions and comments, a revised Feasibility Study Report which is responsive to such directions and comments.

d. Residual Risk Evaluation. Upon receipt of an acceptable draft FS report, EPA will evaluate, as necessary, the magnitude of the risk to the public health and environment that will remain after a particular remedial alternative has been completed. EPA will provide a copy of the Residual Risk Evaluation to Respondent.

e. Final Feasibility Study Report. Within fifteen (15) days of receipt of the Residual Risk Evaluation from EPA, Respondent shall submit to EPA the Final Feasibility Study Report which shall incorporate the Residual Risk Evaluation. The Feasibility Study Report as revised pursuant to EPA comment, and the Administrative Record, shall provide the basis for the Proposed Plan under CERCLA Sections 113(k) and 117(a), 42 U.S.C. §§ 9613(k) and 9617(a), developed by EPA, and shall document the development and analysis of remedial alternatives.

40. EPA reserves the right to comment on, modify, and direct changes for all deliverables. When directed by EPA to do so, Respondent shall fully correct and incorporate all information and comments made by EPA either in subsequent or resubmitted deliverables.

41. Respondent shall not proceed further with any subsequent activities or tasks until receiving EPA approval for the following

deliverables: Remedial Investigation Report, Treatability Testing Workplan and Treatability Testing Sampling and Analysis plan (if required), Alternative Development and Screening Memorandum, and Feasibility Study Report. While awaiting EPA approval of one of these specific deliverables, Respondent shall proceed with the preparation and submission of all other deliverables in accordance with the schedule set forth in this Consent Order. Without amending this Consent Order, EPA may extend by written notice any of the deadlines set forth in this Consent Order and the approved Project Plans.

42. For all remaining deliverables not enumerated above in paragraph 41, Respondent shall proceed with all subsequent tasks, activities, and deliverables without awaiting EPA approval on the submitted deliverable. EPA reserves the right to stop Respondent from proceeding further, either temporarily or permanently, on any task, activity, or deliverable at any point during the RI/FS, removal activities, and demolition of existing structures.

43. In the event that Respondent amends or revises a report, plan or other submittal upon receipt of EPA comments, if EPA subsequently disapproves of the revised submittal, and if subsequent submittals do not fully reflect EPA's directions for changes, EPA retains the right to seek stipulated or statutory penalties, perform its own studies, complete the RI/FS (or any portion of the RI/FS), conduct removal actions under CERCLA and the NCP, and seek reimbursement from Respondent for its costs, and/or seek any other appropriate relief.

002136

44. In the event that EPA takes over some of the tasks, but not the preparation of the RI/FS, Respondent shall incorporate and integrate information supplied by EPA into the final Remedial Investigation and Feasibility Study Report.

45. For any removal actions undertaken at the Site, Respondent shall conduct such actions consistent with the removal action authorized by EPA's Action Memoranda dated October 31, 1991, May 18, 1992, September 23, 1992, and May 6, 1993 for the RSR Corporation Site. Those documents are incorporated by reference herein as if set out word for word.

46. Neither failure of EPA to expressly approve or disapprove of Respondent's submissions within a specified time period, nor the absence of comments, shall be construed as approval by EPA. Respondent is responsible for preparing deliverables acceptable to EPA.

47. Respondent shall, prior to any off-site shipment of hazardous substances from the Site to any waste management facility, provide written notification to the appropriate TWC environmental official assigned to monitor progress at the Site, the appropriate environmental official in the receiving state if such state is other than the State of Texas, and to EPA's Project Coordinator of such shipment of hazardous substances.

48. The notification required in paragraph 47 shall be in writing, and shall include the following information, where available: (1) the name and location of the facility to which the hazardous substances are to be shipped; (2) the type and quantity

of the hazardous substances to be shipped; (3) the expected schedule for the shipment of the hazardous substances; and (4) the method of transportation. Respondent shall notify the receiving state of major changes in the shipment plan, such as a decision to ship the hazardous substances to another facility within the same state, or to a facility in another state.

49. The identity of the receiving facility and state will be determined by Respondent following the award of the contract for transport of hazardous substances. Respondent shall provide all relevant information, including information under the categories noted in paragraph 48 above, on the off-site shipments, as soon as practical after the award of the contract and before the hazardous substances are actually shipped.

X. MODIFICATION OF THE WORK PLAN

50. If at any time during the RI/FS process, Respondent identifies a need for additional data, a memorandum documenting the need for additional data shall be submitted to the EPA Project Coordinator within twenty (20) days of identification. EPA in its discretion will determine whether the additional data is necessary, whether it will be collected by Respondent, and whether it will be incorporated into reports and deliverables.

51. In the event of the discovery or occurrence of conditions posing an immediate threat to human health or welfare or the environment, Respondent shall notify EPA and the state immediately. In the event of unanticipated or changed circumstances at the Site, Respondent shall notify the EPA Project Coordinator by telephone

within 24 hours of discovery of the unanticipated or changed circumstances, in addition to the authorities in the NCP, if applicable. In the event that EPA determines that the immediate threat or the unanticipated or changed circumstances warrant changes in the project plans, EPA shall request modification of the project plans in writing. Respondent shall modify and perform the project plans as modified and directed by EPA.

52. EPA, in its discretion, may determine that in addition to tasks currently defined in the Project Plans, other additional work may be necessary to accomplish the objectives of the RI/FS. EPA may require that Respondent perform the additional work beyond those activities specified in the Project Plans, including any approved modifications, if it determines that such actions are necessary for a complete RI/FS. Within seven (7) days of receipt of EPA's written request for the performance of additional work, Respondent shall either confirm its willingness to perform the additional work or invoke dispute resolution. Subject to EPA resolution of any dispute, Respondent shall implement the additional tasks which EPA determines are necessary. The additional work shall be completed according to the standards, specifications, and schedule set forth or approved by EPA in a written modification to the Project Plans or written supplement to the Project Plans. EPA reserves the right to conduct the work itself at any point, to seek reimbursement from Respondent, and/or to seek any other appropriate relief.

002138

XI. QUALITY ASSURANCE

53. Respondent shall assure that work performed, samples collected and analyses conducted conform to the requirements of the Project Plans and all applicable guidance. Respondent shall use quality assurance, quality control, and chain of custody procedures described in the Sampling and Analysis Plan, while conducting all sample collection and analysis activities required by this Consent Order and the Project Plans. Respondent shall consult with EPA in planning for, and prior to, all sampling and analysis as detailed in the project plans. To provide quality assurance and maintain quality control, Respondent shall:

(a) Use a laboratory which has a documented Quality Assurance Program that complies with EPA guidance document QAMS-005/80.

(b) Ensure that EPA personnel and/or EPA authorized representatives are allowed access to the laboratory and personnel utilized by Respondent for analyses.

(c) Ensure that the laboratory used by Respondent for analyses, performs according to the methods specified in the Project Plans.

Respondent shall assure that field personnel used by Respondent or Respondent's contractors are properly trained in the use of field equipment and in chain of custody procedures.

XII. FINAL RI/FS, PROPOSED PLAN, PUBLIC COMMENT, RECORD OF DECISION, ADMINISTRATIVE RECORD

54. EPA retains the responsibility for the release to the public of the RI/FS report. EPA retains responsibility for the preparation and release to the public of the proposed plan and record of decision in accordance with CERCLA and the NCP.

55. EPA shall provide Respondent with the final RI/FS Report, proposed plan, and record of decision.

56. EPA will determine the contents of the administrative record file for selection of the remedial action. Respondent must submit to EPA documents developed and/or considered during the course of the RI/FS upon which selection of the remedial action may be based. Respondent shall provide copies of plans, task memoranda including documentation of field modifications, recommendations for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports, and other reports. Respondent must additionally submit copies of any previous studies conducted under state, local or other federal authorities relating to selection of the remedial action, and all communications between Respondent and state, local or other federal authorities concerning selection of the remedial action. At EPA's discretion, concurrent with the start of the Remedial Investigation, EPA may require Respondent to establish a community information repository at or near the Site, to house one copy of the administrative record.

XIII. PROGRESS REPORTS AND MEETINGS

57. Respondent shall make presentations at, and participate in, meetings at the request of EPA during the initiation, conduct, and completion of the demolition, removal, and RI/FS activities. In addition to discussion of the technical aspects of the demolition, removal, and RI/FS, topics will include anticipated problems or new issues. Meetings will be scheduled at EPA's discretion.

002141

58. In addition to the deliverables set forth in this Order, Respondent shall provide to EPA monthly progress reports by the 10th day of the following month. At a minimum, with respect to the preceding month, these progress reports shall (1) describe the actions which have been taken to comply with this Consent Order during that month, (2) include all results of sampling and tests and all other data received by Respondent, (3) describe work planned for the next two months, with schedules relating such work to the overall project schedule for project completion, and (4) describe all problems encountered and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays.

XIV. SAMPLING, ACCESS, AND DATA AVAILABILITY/ADMISSIBILITY

59. All results of sampling, tests, modeling or other data (including raw data) generated by Respondent, or on Respondent's behalf, during implementation of this Consent Order and the Project Plans, shall be submitted to EPA in the subsequent monthly progress report as described in Section XIII of this Order. EPA will make available to Respondent validated data generated by EPA with respect to the Site, and unless such data is exempt from disclosure by any federal or state law or regulation, data with respect to the RSR Corporation Site generally.

60. Respondent will verbally notify EPA at least fifteen (15) days prior to conducting significant field events as described in the Project Plans. At EPA's verbal or written request, or the

verbal or written request of EPA's oversight contractor, Respondent shall allow split or duplicate samples to be taken by EPA (and its authorized representatives) of any samples collected by the Respondent in implementing this Consent Order and the Project Plans. All split samples of Respondent and EPA shall be analyzed by the methods identified in the QAPP described in the Project Plans.

61. At all reasonable times, EPA and its authorized representatives shall have the authority to enter and freely move about all property at the Site and off-site areas for the purposes of inspecting conditions, activities, the results of activities, records, operating logs, and contracts related to the Site or Respondent and its contractor pursuant to this Order; reviewing the progress of Respondent in carrying out the terms of this Consent Order; conducting tests as EPA or its authorized representatives deem necessary; using a camera, video recorder, sound recording device, or other documentary type equipment; and verifying the data submitted to EPA by Respondent. Respondent shall allow these persons to inspect and copy all records, files, photographs, documents, sampling and monitoring data, and other writings related to work undertaken in carrying out this Consent Order and the Project Plans. Nothing herein shall be interpreted as limiting or affecting EPA's right of entry or inspection authority under federal law. All parties with access to the Site under this paragraph shall comply with the approved Health and Safety Plan.

002143

62. Respondent may assert a claim of business confidentiality covering part or all of the information submitted to EPA pursuant to the terms of this Consent Order and the Project Plans under 40 C.F.R. § 2.203, provided such claim is allowed by Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). This claim shall be asserted in the manner described by 40 C.F.R. § 2.203(b) and substantiated at the time the claim is made. Information determined to be confidential by EPA will be given the protection specified in 40 C.F.R. Part 2. If no such claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA or the state without further notice to the Respondent. Respondent agrees not to assert confidentiality claims with respect to any data related to site conditions, sampling, or monitoring.

63. In entering into this Order, Respondent waives any objections to any data gathered, generated, or evaluated by EPA, the State or Respondent in the performance or oversight of the work that has been verified according to the quality assurance/quality control (QA/QC) procedures required by this Consent Order or any EPA-approved Project Plans. If Respondent objects to any other data relating to the project or the RI/FS, Respondent shall submit to EPA a report that identifies and explains its objections, describes the acceptable uses of the data, if any, and identifies any limitations to the use of the data. The report must be submitted to EPA within fifteen (15) days of the monthly progress report containing the data.

64. If the Site, or the off-site area that is to be used for access is owned in whole or in part by parties other than those bound by this Consent Order, Respondent will obtain, or use its best efforts to obtain, site access agreements from the present owner within thirty (30) days of the effective date of this Consent Order. Such agreements shall provide access for EPA, its contractors and oversight officials, the state and its contractors, and Respondent or its authorized representatives, and such agreements shall specify that Respondent is not EPA's representative with respect to liability associated with site activities. Copies of such agreements shall be provided to EPA prior to Respondent's initiation of field activities. If access agreements are not obtained within the time referenced above, Respondent shall immediately notify EPA of its failure to obtain access. EPA may obtain access for the Respondent, perform those tasks or activities with EPA contractors, or terminate the Consent Order in the event that Respondent cannot obtain access agreements. In the event that EPA performs those tasks or activities with EPA contractors and does not terminate the Consent Order, Respondent shall perform all other activities not requiring access to that site, and shall reimburse EPA for all costs incurred in performing such activities. Respondent additionally shall integrate the results of any such tasks undertaken by EPA into its reports and deliverables. Furthermore, Respondent agrees to indemnify the U.S. Government as specified in Section XXVI of this Order. Respondent also shall reimburse EPA, pursuant to Section XXII of this Consent

002144

Order, for all costs and attorney fees incurred by the United States to obtain access for Respondent.

XV. DESIGNATED PROJECT COORDINATORS

65. Documents, including reports, approvals, disapprovals, and other correspondence, which must be submitted under this Consent Order, shall be sent by certified mail, return receipt requested, to the following addressees or to any other addressees which Respondent and EPA designate in writing:

- (a) Documents to be submitted to EPA should be sent to:

Mr. Carlos Sanchez
RSR Corporation Site Remedial Project Manager
Texas Construction Section (6H-SC)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

- (b) Mr. Jeff Patterson
RSR Corporation Site Project Manager
Superfund Investigations Section
Texas Water Commission
1700 North Congress Avenue
Austin, Texas 78711-3087

- (c) Documents to be submitted to Respondent should be sent to:

Lori Henderson
Assistant Director
Dallas Housing Authority
3939 North Hampton Road
Dallas, Texas 75212

66. Each Project Coordinator shall be responsible for overseeing the implementation of this Consent Order. To the maximum extent possible, communications between Respondent and EPA shall be directed to the Project Coordinator by mail, with copies to such other persons as EPA, the state, and Respondent may respectively designate. Communications include, but are not

limited to, all documents, reports, approvals, and other correspondence submitted under this Consent Order.

67. EPA and Respondent each have the right to change their respective Project Coordinator. The other party must be notified in writing at least ten (10) days prior to the change.

68. EPA's Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager (RPM) and On-Scene Coordinator (OSC) by the NCP. In addition, EPA's Project Coordinator shall have the authority consistent with the National Contingency Plan, to halt any work required by this Consent Order, and to take any necessary response action when he or she determines that conditions at the Site may present an imminent and substantial endangerment to public health or welfare or the environment. The absence of the EPA Project Coordinator from the Site shall not be cause for the stoppage or delay of work.

69. EPA shall arrange for a qualified person to assist in its oversight and review of the conduct of the RI/FS, as required by Section 104(a) of CERCLA, 42 U.S.C. § 9604(a). The oversight assistant may observe work and make inquiries in the absence of the Project Coordinator, but is not authorized to modify the Project Plans.

XVI. OTHER APPLICABLE LAWS

70. Respondent shall comply with all laws that are applicable when performing the demolition, removal, and RI/FS activities. No local, state, or federal permit shall be required for any portion of any action conducted entirely on-site, including studies, where

such action is selected and carried out in compliance with section 121 of CERCLA, 42 U.S.C. § 9621.

XVII. RECORD PRESERVATION

71. All records and documents in EPA's and Respondent's possession that relate in any way to the Site shall be preserved during the conduct of this Consent Order and for a minimum of ten (10) years after commencement of any remedial action. Respondent shall acquire and retain copies of all documents that relate to the Site and are in the possession of its employees, agents, accountants, contractors, or attorneys. After this 10 year period, Respondent shall notify EPA at least ninety (90) days before the documents are scheduled to be destroyed. If EPA requests that the documents be saved, Respondent shall, at no cost to EPA, deliver to EPA the documents or copies of the documents.

XVIII. DISPUTE RESOLUTION

72. Any disputes concerning project activities or deliverables required under this Order, for which dispute resolution has been expressly provided for, shall be resolved as follows: If Respondent objects to any EPA notice of disapproval or requirement made pursuant to this Consent Order, Respondent shall notify EPA's Project Coordinator in writing of its objections within 14 days of receipt of the disapproval notice or requirement. Respondent's written objections shall define the dispute, state the basis of Respondent's objections, and be sent certified mail, return receipt requested. EPA and Respondent then have an additional 14 days to reach agreement. If an agreement is not

reached within 14 days, Respondent may request a determination by EPA's Superfund Programs Branch Chief. The Superfund Programs Branch Chief's determination is EPA's final decision. Respondent shall proceed in accordance with EPA's final decision regarding the matter in dispute, regardless of whether Respondent agrees with the decision. If Respondent does not agree to perform or does not actually perform the work in accordance with EPA's final decision, EPA reserves the right in its sole discretion to conduct the work itself, to seek reimbursement from Respondent, to seek enforcement of the decision, to seek stipulated penalties, and/or to seek any other appropriate relief.

73. Respondent is not relieved of its obligations to perform and conduct activities and submit deliverables in accordance with the schedule set forth in the Project Plans and in this Consent Order while a matter is pending in dispute resolution. The invocation of dispute resolution does not stay stipulated penalties under this Order.

XIX. DELAY IN PERFORMANCE/STIPULATED PENALTIES

74. In the event of violation of this Order, Respondent shall pay into the Hazardous Substances Superfund, the sum set forth below as stipulated penalties. The payment of stipulated penalties shall be made by mailing a cashier's check or certified check payable to the HAZARDOUS SUBSTANCES SUPERFUND within thirty (30) days after the date of a demand from EPA for payment of stipulated penalties, to the following address:

U.S. Environmental Protection Agency
Region 6 - RSR Corporation Site (OU02)

Attention: Superfund Accounting
P.O. Box 360582M
Pittsburgh, PA 15251

The words "CERCLA Docket Number 6-21-93" and "Site Spill ID # 3Y, Operable Unit 02", shall be clearly typed on the check to ensure proper credit. A copy of the check and transmittal shall be simultaneously sent to the EPA Project Coordinator.

75. For any violation of this Order, stipulated penalties shall accrue from the date of violation until the violation is corrected in the amount of:

For the 1st day through the 15th day - \$1000 per day
For the 16th day through the 30th day - \$1500 per day
For the 31st day and beyond - \$2500 per day

76. If payment is not made within 30 days after the date of EPA's demand, interest will accrue on the amount due from the due date at the current annual rate prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletin per annum and through the date of payment.

77. The due date for payment is the date or dates specified in this Consent Order unless Respondent invokes the dispute resolution provisions of this Order. If dispute resolution is invoked, payment of stipulated penalties shall be made no later than thirty (30) days after the date of final resolution of the dispute. In addition, if dispute resolution is invoked, for purposes of interest calculation, the due date is the date of final resolution of the dispute.

78. If the payment is overdue, EPA will also impose a late payment handling charge of \$15, with an additional delinquent notice charge of \$15 for each subsequent 30-day period. Finally, EPA will apply a 6 percent per annum penalty on any principal amount not paid within 90 days of the due date.

XX. FORCE MAJEURE

79. "Force majeure," for purposes of this Consent Order, is defined as any event arising from causes beyond the control of Respondent and of any entity controlled by Respondent, including their contractors and subcontractors, that delays the timely performance of any obligation under this Consent Order notwithstanding Respondent's best efforts to avoid the delay. The requirement that Respondent exercise "best efforts to avoid the delay" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (1) as it is occurring and (2) following the potential force majeure event, such that the delay is minimized to the greatest extent practicable. Examples of events that are not force majeure events include, but are not limited to, increased costs or expenses of any work to be performed under this Order or the financial difficulty of Respondent to perform such work.

80. If any event occurs or has occurred that may delay the performance of any obligation under this Order, whether or not caused by a force majeure event, Respondent shall notify by telephone the EPA Project Coordinator or, in his or her absence,

the Chief of the Superfund Programs Branch, EPA Region 6, within 48 hours of when Respondent knew that the event might cause a delay. Within five business days thereafter, Respondent shall provide in writing the reasons for the delay, the anticipated duration of the delay, all actions taken or to be taken to prevent or minimize the delay, a schedule for implementation of any measures to be taken to mitigate the effect of the delay, and a statement as to whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health, welfare, or the environment. Respondent shall exercise best efforts to avoid or minimize any delay and any effects of a delay. Failure to comply with the above requirements shall preclude Respondent from asserting any claim of force majeure.

81. If EPA agrees in writing that the delay or anticipated delay is attributable to force majeure, the time for performance of the obligations under this Order that are directly affected by the force majeure event shall be extended by agreement of the parties, pursuant to section XXVII or paragraph 41 of this Order, for a period of time not to exceed the actual duration of the delay caused by the force majeure event. An extension of the time for performance of the obligation directly affected by the force majeure event shall be in writing and shall not, of itself, extend the time for performance of any subsequent obligation, except as addressed therein.

82. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, or does not

agree with Respondent on the length of the extension, EPA will inform Respondent in writing, and the issue may be subject to the dispute resolution procedures set forth in section XVIII of this Order. In any such proceeding, to qualify for a force majeure defense, Respondent shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay was or will be warranted under the circumstances, that Respondent did exercise or is exercising due diligence by using its best efforts to avoid and mitigate the effects of the delay, and that Respondent complied with the requirements of paragraph 80.

83. Should Respondent carry the burden set forth in paragraph 82, the delay at issue shall be deemed not to be a violation of the affected obligation of this Consent Order.

XXI. REIMBURSEMENT OF PAST COSTS

84. No later than thirty (30) days after the effective date of this Order, Respondent shall pay, to the Hazardous Substances Superfund, TWENTY-TWO THOUSAND FIVE HUNDRED TWENTY-SIX AND 69/100 DOLLARS (\$22,526.69). This amount includes only EPA Region 6 personnel costs and EPA Region 6 indirect costs incurred and paid through May 31, 1993.

85. Payment shall be made by mailing a cashier's check or certified check payable to the Hazardous Substances Superfund, no later than thirty (30) days after the effective date of this Consent Order, to the following address:

U.S. Environmental Protection Agency
Region 6 - RSR Corporation Site (OU02)
Attention: Superfund Accounting
P.O. Box 360582M
Pittsburgh, PA 15251

The words "CERCLA Docket Number 6-21-93" and "Site Spill # 3Y Operable Unit 02" should be clearly typed on the check to insure credit. A copy of the check and transmittal letter shall be sent simultaneously to the EPA Project Coordinator.

86. If payment is not made by the due date, stipulated penalties shall apply for the period of nonpayment. In addition, interest will accrue on the amount due from the due date at the current annual rate prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletin per annum and through the date of payment.

XXII. REIMBURSEMENT OF RESPONSE AND OVERSIGHT COSTS

87. Following the issuance of this Consent Order, EPA shall submit to Respondent, on an annual basis, an accounting of unpaid response costs incurred by EPA with respect to the Site, including response costs incurred prior to the effective date of this Order which have not been reimbursed to EPA, oversight costs, and costs incurred in connection with Home Sampling activities conducted at the Site. Response costs may include, but are not limited to, costs incurred by the the U.S. Government in overseeing Respondent's implementation of the requirements of this Order, community relations activities, and costs incurred to obtain access. Costs shall include all direct and indirect costs,

including, but not limited to, time and travel costs of EPA personnel and associated indirect costs, contractor costs, cooperative agreement costs, compliance monitoring, including the collection and analysis of split samples, inspection of project activities, site visits, discussions regarding disputes that may arise as a result of this Consent Order and the Project Plans, review and approval or disapproval of reports, and costs of redoing any of Respondent's tasks. Any necessary summaries, including, but not limited to, EPA's Superfund Cost Organization and Recovery Enhancement System (SCORES) report for the Site shall serve as basis for payment demands.

88. Respondent shall, no later than thirty (30) days after receipt of each accounting, pay to the Hazardous Substances Superfund the amount of the costs in EPA's accounting. Payment shall be made by mailing a cashier's check or certified check payable to the Hazardous Substances Superfund to the following address:

U.S. Environmental Protection Agency
Superfund Accounting - Region 6
RSR Corporation Site (OU 02)
P.O. Box 360582M
Pittsburgh, PA 15251

The words "CERCLA Docket Number 6-21-93" and "Site Spill # 3Y Operable Unit 02" should be clearly typed on the check to insure credit. A copy of the check and transmittal letter shall be sent simultaneously to the EPA Project Coordinator.

89. If payment is not made within 30 days after Respondent's receipt of EPA's accounting, stipulated penalties shall apply for

the period of nonpayment. In addition, interest will accrue on the amount due from the due date at the current annual rate prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletin per annum and through the date of payment.

90. The due date for payment is the date or dates specified in this Consent Order unless Respondent invokes the dispute resolution provisions of this Order. If dispute resolution is invoked, payment shall be made no later than thirty (30) days after the date of final resolution of the dispute. In addition, if dispute resolution is invoked, for purposes of interest calculation, the due date is the date of final resolution of the dispute.

91. Respondent agrees to limit any disputes concerning costs to accounting errors and the inclusion of costs outside the scope of this Consent Order. Respondent shall identify any contested costs and the basis of its objection. All undisputed costs shall be remitted by Respondent in accordance with the schedule set forth above. Respondent bears the burden of establishing an EPA accounting error or the inclusion of costs outside the scope of this Consent Order.

XXIII. RESERVATIONS OF RIGHTS AND REIMBURSEMENT OF OTHER COSTS

92. EPA reserves the right to bring an action against Respondent under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of all response costs, including oversight costs, incurred by the United States at or in connection with the Site that are not

reimbursed by Respondent, any costs incurred in the event that EPA performs the RI/FS or other activities required in the Project Plans, or any part thereof, and any future costs incurred by the United States in connection with response activities conducted under CERCLA at the Site.

93. EPA reserves the right to bring an action against Respondent to enforce the past costs and response and oversight cost reimbursement requirements of this Consent Order, to collect stipulated penalties assessed pursuant to section XIX of this Consent Order, and to seek penalties pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609.

94. Except as expressly provided in this Order, each party reserves all rights and defenses it may have. Nothing in this Consent Order shall affect EPA's removal authority or EPA's response or enforcement authorities including, but not limited to, the right to seek injunctive relief, stipulated penalties, statutory penalties, and/or punitive damages.

95. Following satisfaction of the requirements of this Consent Order, Respondent shall have resolved its liability to EPA for the work performed by Respondent pursuant to this Consent Order. Respondent is not released from liability, if any, for any response actions taken beyond the scope of this Order regarding removals, other operable units, remedial design/remedial action of the Site, or activities arising pursuant to Section 121(c) of CERCLA, 42 U.S.C. § 9621(c).

XXIV. DISCLAIMER

96. By signing this Consent Order and taking actions under this Order, Respondent does not necessarily agree with EPA's Findings of Fact and Conclusions of Law; however, Respondent admits to jurisdiction in this matter and agrees not to contest jurisdiction for the purposes of this Consent Order and all matters relating to the implementation and enforcement of the Order. Furthermore, the participation of Respondent in this Order shall not be considered an admission of liability and is not admissible in evidence against Respondent in any judicial or administrative proceeding other than a proceeding by the United States, including EPA, to enforce this Consent Order or a judgment relating to it. Respondent retains its rights to assert claims against other potentially responsible parties at the Site. However, Respondent agrees not to contest the validity or terms of this Order, or the procedures underlying or relating to it in any action brought by the United States, including EPA, to enforce its terms.

XXV. OTHER CLAIMS

97. In entering into this Order, Respondent waives any right to seek reimbursement under Section 106(b) of CERCLA, 42 U.S.C. § 9606(b). Respondent also waives any right to present a claim under Sections 111 or 112 of CERCLA, 42 U.S.C. §§ 9611 or 9612. This Order does not constitute any decision on preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2). Respondent further waives all other statutory and common law claims against EPA, including, but not limited to, contribution and

002157

002158

counterclaims, relating to or arising out of conduct of the RI/FS. This Consent Order constitutes an administrative settlement pursuant to section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2).

98. Nothing in this Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership, subsidiary, or corporation not a signatory to this Consent Order for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances, pollutants, or contaminants found at, taken to, or taken from the Site.

99. Respondent shall bear its own costs and attorneys fees.

XXVI. INSURANCE AND INDEMNIFICATION

100. Prior to commencement of any work under this Order, Respondent shall secure, and shall maintain in force for the duration of this Order, and for two years after the completion of all activities required by this Consent Order, Comprehensive General Liability ("CGL") and automobile insurance, with limits of ten million dollars, combined single limit, naming as an additional insured the United States. The CGL insurance shall include Contractual Liability Insurance in the amount of one million dollars per occurrence, and Umbrella Liability Insurance in the amount of one million dollars per occurrence.

101. Respondent also shall secure, and maintain in force for the duration of this Order and for two years after the completion of all activities required by this Consent Order the following:

a. Professional Errors and Omissions Insurance in the amount of one million dollars per occurrence.

b. Pollution Liability Insurance in the amount of one million dollars per occurrence, covering as appropriate both general liability and professional liability arising from pollution conditions.

c. EPA will agree to waive the requirements set out in Paragraphs 100 and 101 if Respondent, provides Board of Director assurance, in writing, of capacity to indemnify any casualty or loss that may occur during Respondent's execution of Work under this Order through a self-insurance program or similar financial instrument.

d. For the duration of this Order, Respondent shall satisfy, or shall ensure that its contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of employer's liability insurance and workmen's compensation insurance for all persons performing work on behalf of Respondent, in furtherance of this Order.

e. If Respondent demonstrates by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then with respect to that contractor or subcontractor Respondent need provide only that portion of the insurance described above which is not maintained by the contractor or subcontractor.

002159

f. Prior to commencement of any work under this Order, and annually thereafter on the anniversary of the effective date of this Order, Respondent shall provide to EPA certificates of such insurance and a copy of each insurance policy.

102. At least 7 days prior to commencing any work under this Consent Order, Respondent shall certify to EPA that the required insurance has been obtained by Respondent's contractor.

103. Respondent agrees to indemnify and hold the United States Government, its agencies, departments, agents, and employees harmless from any and all claims or causes of action arising from or on account of acts or omissions of Respondent, its employees, agents, servants, receivers, successors, or assignees, or any persons including, but not limited to, firms, corporations, subsidiaries and contractors, in carrying out activities under this Consent Order. The United States Government or any agency or authorized representative thereof shall not be held as a party to any contract entered into by Respondent in carrying out activities under this Consent Order.

XIVII. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

104. The effective date of this Consent Order shall be the date it is signed by EPA.

105. This Consent Order may be amended by mutual agreement of EPA and Respondent. Amendments shall be in writing and shall be effective when signed by EPA. EPA Project Coordinators do not have the authority to sign amendments to the Consent Order. The EPA

official authorized to sign amendments to this Consent Order shall be the Director of the Hazardous Waste Management Division.

106. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by Respondent will be construed as relieving the Respondent of its obligation to obtain such formal approval as may be required by this Order. Any deliverables, plans, technical memoranda, reports (other than progress reports), specifications, schedules and attachments required by this Consent Order are, upon approval by EPA, incorporated into this Order.

XXVIII. SEVERABILITY

107. The nullification of any one or more Sections or provisions of a Section of this Consent Order, either by agreement of the Parties or by administrative or judicial action, shall not affect the other sections/provisions of this Order.

XXIX. TERMINATION AND SATISFACTION

108. This Consent Order shall terminate when Respondent demonstrates in writing and certifies to the satisfaction of EPA that all activities required under this Consent Order, including any additional work, payment of past costs, response and oversight costs, and any stipulated penalties demanded by EPA, have been performed and EPA has approved the certification. This notice shall not, however, terminate Respondent's obligation to comply with Sections XVI, XXI, and XXII of this Consent Order.

109. The certification of termination shall be signed by a responsible official representing Respondent. The responsible

official shall make the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate, and complete." For purposes of this Consent Order, the responsible official is the Executive Director of the Dallas Housing Authority.

FOR THE DALLAS HOUSING AUTHORITY:

BY: _____

DATE: 8/2/93

ANDREW JACKSON

Print name

PRESIDENT AND CED

Title

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

BY: _____

DATE: 8/9/93

Allyn M. Davis, Director
Hazardous Waste Management Division
U.S. EPA, Region 6

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